

AMENDED IN SENATE APRIL 15, 2015

SENATE BILL

No. 324

Introduced by Senator Pavley

(Coauthor: Senator Beall)

(Principal coauthors: Assembly Members Irwin and Wilk)

February 23, 2015

An act to add Sections 17140.4 and 23711.4 to the Revenue and Taxation Code, and to add Chapter 15 (commencing with Section 4875) to Division 4.5 of the Welfare and Institutions Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 324, as amended, Pavley. Income taxation: savings plans: Qualified ABLE Program.

The Personal Income Tax Law and the Corporation ~~Income~~ Tax Law, in specified conformity with federal income tax laws regarding qualified tuition programs, provide that distributions from a qualified tuition program are generally not included in the income of the donor or the beneficiary, as specified.

Existing federal law, the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 (~~ABLE-act~~ *Act*), for taxable years beginning on or after January 1, 2015, encourages and assists individuals and families to save private funds for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a ~~qualified ABLE program~~ *Qualified ABLE Program* established and maintained by a state, as specified.

This bill would conform to these federal income tax law provisions relating to the ABLE Act under the Personal Income Tax Law and the

Corporation Income Tax Law, as provided. The bill would also establish in state government a ~~qualified ABLE program~~ *Qualified ABLE Program* and the Qualified ABLE Fund for purposes of implementing the federal ABLE act. The bill would require the Treasurer to administer the program in compliance with the requirements of the federal ABLE ~~act~~ *Act*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17140.4 is added to the Revenue and
2 Taxation Code, to read:
3 17140.4. Section 529A of the Internal Revenue Code, relating
4 to qualified ABLE programs, ~~as enacted by Section 102 of~~ *added*
5 *by Section 102 of Division B of* Public Law 113-295, shall apply,
6 except as otherwise provided.
7 (a) Section 529A of the Internal Revenue Code is modified as
8 follows:
9 (1) By substituting the phrase “under this part and Part 11
10 (commencing with Section 23001)” in lieu of the phrase “under
11 this subtitle.”
12 (2) By substituting “Article 2 (commencing with Section
13 23731)” in lieu of “Section 511.”
14 (b) A copy of the report required to be filed with the Secretary
15 of the Treasury under ~~Section 529A(g) of the Internal Revenue~~
16 ~~Code~~ *529A(d) of the Internal Revenue Code, relating to reports,*
17 shall be filed with the Franchise Tax Board at the same time and
18 in the same manner as specified in that section.
19 SEC. 2. Section 23711.4 is added to the Revenue and Taxation
20 Code, to read:
21 23711.4. Section 529A of the Internal Revenue Code, relating
22 to qualified ABLE programs, ~~as enacted by Section 102 of~~ *added*
23 *by Section 102 of Division B of* Public Law 113-295, shall apply,
24 except as otherwise provided.
25 (a) Section 529A of the internal Revenue Code is modified as
26 follows:
27 (1) By substituting the phrase “under Part 10 (commencing with
28 Section 17001) and this part” in lieu of the phrase “under this
29 subtitle.”

(2) By substituting “Article 2 (commencing with Section 23731)” in lieu of “section 511.”

(b) A copy of the report required to be filed with the Secretary of the Treasury under Section ~~529A(g) of the Internal Revenue Code~~ *529A(d) of the Internal Revenue Code, relating to reports*, shall be filed with the Franchise Tax Board at the same time and in the same manner as specified in that section.

SEC. 3. Chapter 15 (commencing with Section 4875) is added to Division 4.5 of the Welfare and Institutions Code, to read:

CHAPTER 15. QUALIFIED ABLE PROGRAM

4875. For purposes of this chapter:

(a) “ABLE account” or “account” means the account an eligible individual makes contributions to pursuant to this chapter for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account.

(b) ~~“ABLE fund”~~ *Fund* or “fund” means the fund established by this chapter for purposes of implementing the federal ABLE act.

(c) “Designated beneficiary” means the eligible individual who established an ABLE account and is the owner of the account.

(d) “Eligible individual” means an individual who is eligible under the program for a taxable year if during that taxable year all of the following criteria are met:

(1) The individual is entitled to benefits based on blindness or disability under Title II or XVI of the federal Social Security Act, and that blindness or disability occurred before the date on which the individual attained 26 years of age.

(2) A disability certification, as defined in the federal ABLE act, with respect to the individual is filed pursuant to the requirements set forth in the federal ABLE act.

(e) “Federal ABLE act” means the federal Stephen Beck Jr., Achieving a Better Life Experience Act of 2014.

(f) ~~“Qualified ABLE program”~~ *Program* or “program” means the program established by this chapter to implement the federal ABLE act pursuant to Section 529A of the Internal Revenue Code.

(g) “Qualified disability expenses” means any expenses related to the eligible individual’s blindness or disability that are made for the benefit of an eligible individual who is the designated

1 beneficiary, including expenses related to education, housing,
2 transportation, employment training and support, assistive
3 technology and personal support services, health, prevention and
4 wellness, financial management and administrative services, legal
5 fees, expenses for oversight and monitoring, funeral and burial
6 expenses, and other expenses, which are approved by the Secretary
7 of the Treasury under regulations and consistent with the purposes
8 of the federal ABLE act.

9 4876. (a) There is hereby established in state government a
10 ~~qualified ABLE program~~ *Qualified ABLE Program* and the
11 Qualified ABLE Fund for purposes of implementing the federal
12 ABLE act pursuant to Section 529A of the Internal Revenue Code.

13 (b) ~~The qualified ABLE program~~ *Qualified ABLE Program*
14 shall be administered by the Treasurer, who shall be responsible
15 to ensure that the program is administered in compliance with the
16 requirements of the federal ABLE act.

17 4877. Under the program, a person may make contributions
18 for a taxable year, for the benefit of an individual who is an eligible
19 individual for that taxable year, to an ABLE account that is
20 established for the purpose of meeting the qualified disability
21 expenses of the designated beneficiary of the account, if all of the
22 following criteria are met:

23 (a) The designated beneficiary is limited to one ABLE account
24 for purposes of this chapter.

25 (b) The ABLE account is established only for a designated
26 beneficiary who is a resident of this state.

27 4878. The Treasurer may adopt regulations to implement this
28 chapter.

29 4879. *Notwithstanding any other law, moneys in an ABLE*
30 *account, not to exceed one hundred thousand dollars (\$100,000)*
31 *shall not count toward determining eligibility for the Medi-Cal*
32 *program pursuant to Chapter 7 (commencing with Section 14000)*
33 *of Part 3 of Division 9.*